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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/647,645

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Christopher C. Brown

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DAVIS LAW GROUP, P.C.
6836 BEE CAVES ROAD
SUITE 220
AUSTIN, TX 78746

EXAMINER

GREIMEL, JOCELYN

ART UNIT

PAPER NUMBER

3693

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

04/05/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/647,645	Applicant(s) BROWN ET AL.	
	Examiner Jocelyn Greimel	Art Unit 3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This communication is in response to Applicant's Amendments and Remarks filed 01 February 2007.

Status of Claims

2. Claims 1-28 are currently pending.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. 2164.08(a) Single Means Claim

A single means claim, i.e., where a means recitation does not appear in combination with another recited element of means, is subject to an undue breadth rejection under 35 U.S.C. 112, first paragraph. *In re Hyatt*, 708 F.2d 712, 714-715, 218 USPQ 195, 197 (Fed. Cir. 1983) (A single means claim which covered every conceivable means for achieving the stated purpose was held nonenabling for the scope of the claim because the specification disclosed at most only those means known to the inventor.). When claims depend on a recited property, a fact situation comparable to *Hyatt* is possible, where the claim covers every conceivable structure (means) for achieving the stated property (result) while the specification discloses at most only those known to the inventor.

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5. Instant claims 1-28 are drawn to any "computing device", regardless of construct, that performs the function cited. The claims do not use the term "means", so they are not literally "single *means* claims". However, in *Fiers v. Revel*, (CAFC) 25 USPQ2d 1601, 1606 (01/19/1993), the CAFC affirmed a rejection under 35 USC 112 of a claim reciting a single element that did not literally use "means-plus-function" language. The instant claims parallel the fact situation in *Fiers* wherein "a DNA" and a result was recited. The CAFC stated in *Fiers* at 1606 "Claiming all DNA's that achieve a result without defining what means will do so is not in compliance with the description requirement; it is an attempt to preempt the future before it has arrived." See also *Ex parte Maizel*, (BdPatApp&Int) 27 USPQ2d 1662, 1665 and *Ex parte Kung*, (BdPatApp&Int) 17 USPQ2d 1545, 1547 (01/30/1989) where the claims at issue were rejected for being analogous to single means claims even though "means" was not literally used. The Examiner would suggest the following change in the independent claim language: "A system, comprising: a computing device configured to: receive..."

Allowable Subject Matter

6. The following is a statement of reasons for the indication of allowable subject matter: the prior art fails to teach or suggest the limitations of the independent claims. Claims 1-28 were previously rejected under 35 U.S.C. 102(e) as being anticipated by Tengel et al (U.S. Patent No. 5,940,812, "Tengel").

7. Independent claim 1 discloses: a system comprising a computing device for: receiving first information about a customer; to at least first and second loan sources, outputting second information enabling the first and second loan sources to determine whether to offer a loan to the customer for financing an item, wherein the second information includes at least a portion of the first information; from the first and second loan sources, receiving submissions of respective first and second offers for providing the loan to the customer for financing the item, wherein the first and second offers are submitted by the first and second loan sources in response to the second information and in a manner that commits to provide the loan if accepted by the customer; identifying at least one of the first and second offers as being more favorable; and to the customer, outputting third information about the identified offer, wherein the third information includes an identity of at least one of the loan sources that submitted the identified offer. Dependent claims 2-15 are allowable as they follow from the allowable independent claim 1.

8. Independent claim 16 discloses: a system, comprising a computing device for: receiving first information about a customer, wherein the first information includes an identity of the customer, in response to the first information, determining second information regarding the customer's ability to repay a loan; to at least one loan source, outputting third information enabling the loan source to determine whether to offer the loan to the customer for financing an item, wherein the third information includes at least a portion of the first information and the second information, yet withholding the

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customer's identity from the loan source, receiving a submission of an offer for providing the loan to the customer for financing the item, wherein the offer is submitted by the loan source in response to the third information and in a manner that commits to provide the loan if accepted by the customer; and to the customer, outputting fourth information about the offer, wherein the fourth information includes an identity of the loan source. Claims 17-28 are allowable as they follow from the allowable independent claim 16.

9. The primary difference between the claimed invention and the prior art is the system outputs second information (including at least a portion of the first information about the customer) enabling the first and second loan sources to determine whether to offer a loan to the customer for financing an item, which all occurs before the customers receive the submissions of the respective first and second offers from the first and second loan sources and before the system identifies at least one of the first and second offers as being most favorable. As a brief comparison, Applicant's claim 1 discloses:

- a. The system receiving customer information;
- b. The system sending customer information to the loan sources;
- c. The loan sources submitting binding offers of loans (for the customers) to the system;
- d. The system identifying a "most favorable" loan offer;
- e. The system outputting to the customer the identified loan offer with information of the identity of the loan source.

Additionally, in Applicant's claim 16, the initial information received from the customer is used by the system to determine the customer's ability to repay the loan and this is provided to the loan sources (yet, customer identity is withheld).

10. Tengel is a loan system that receives customer information. Tengel discloses a system where:

- f. The loan source specifies loan attributes and acceptance criteria;
- g. The customer selects potential loan sources;
- h. The customer information is sent to the loan source.
- i. The loan source can make a binding offer to the customer.

However, Tengel does not disclose the system as described above in steps a-e.

Response to Arguments

11. Applicant's arguments filed 01 February 2007, with respect to claims 1-28 have been fully considered and are persuasive. The 35 U.S.C. 102(e) rejection of claims 1-28 has been withdrawn.

12. The Applicant's arguments regarding a 35 U.S.C. 103 rejection are moot as no 35 U.S.C. 103 rejection was made in the non-final rejection.

Conclusion

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jocelyn Greimel whose telephone number is (571) 272-3734. The examiner can normally be reached Monday - Friday 8:30 AM - 4:30 PM EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached at (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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15. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jocelyn Greimel
Examiner, Art Unit 3693
March 27, 2007

 3/29/07
JAMES A. KRAMER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600